

The Leesburg Planning Commission met on Thursday, April 21, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Christopher Murphy, David Fuller, Steve McGregor, Bruce Douglas, Nick Colonna and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Vice Chairman Wright

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Commissioner Bangert
Commissioner Barnes
Commissioner Hoovler
Commissioner Jones
Commissioner Kalriess
Commissioner Wright
Mayor Umstatted

Absent: Chairman Vaughan

ADOPTION OF AGENDA

Commissioner Bangert moved to move the Council and Representative’s Report, Staff and Committee Reports, Old Business and New Business to a point on the agenda prior to the Comprehensive Planning Town Plan Review.

Motion: Bangert
Second: Kalriess
Carried: 5-0

Commissioner Hoovler was not present for this vote.

APPROVAL OF MINUTES

Commissioner Bangert moved to adopt the minutes of the March 24, 2005 meeting with edits presented by Commissioner Kalriess

Motion: Bangert
Second: Jones
Carried: 3-0-2

Commissioners Wright and Barnes abstained from the vote. Commissioner Hoovler was not present for the vote

CHAIRMAN'S STATEMENT

Vice Chairman Wright reviewed the agenda as presented and amended, noting that the second part of the meeting will take place on the lower level of the Town Office. This will be the discussion of the Town Plan.

PETITIONERS

None

PUBLIC HEARING

TLSE-2004-0018, Gatehouse Cable Television and Broadband Head3end Facility located at the eastern quadrant of Battlefield Parkway at Woods Edge Drive in Edwards Landing.

Phil Wallin, Director of Operations for Gatehouse Networks came forward and described the facility that they would like to build on this site. Basically it will become the broadband headend facility for Gatehouse Cable. It will include some satellite dishes on the site, but they will be blocked from view by some landscaping and fencing for the most part.

Christopher Murphy, Sr. Planner described the special exception which would allow Gatehouse to install a permanent video and data headend facility that would provide cable television and high speed internet to Edwards landing. The electrical equipment would be housed in a 448 s.f. building and will include up to six 1.8 meter diameter satellite dishes. The facility would be unmanned, and no customer service will occur at the headend facility. This facility will replace a temporary trailer that currently sits on Battlefield Parkway. The design is required to emulate the design and materials of the Edwards Landing community center building, which it does. The town recommends approval of the application with conditions.

At this time Vice Chairman opened the public hearing.

Ralph Darnell, 1508 Artillery Terrace, said he was opposed to the special exception application. He said the residents were not consulted about this activity and are not really interested in the service provided by Gatehouse. He gave the past history of Gatehouse in the area and emphasized that they do not provide what they promise. Providing this new facility will not assist in service improvement.

Dennis Nolan of 1207 Tennessee Drive came forward with his opposition to this special exception. He said this has been a contentious relationship from the beginning. With Verizon moving in with cable, the Gatehouse building will more than likely be vacated in a few years. Gatehouse cannot compete with Verizon. If anything at all, they should locate on the current community center site because if they vacate, then the addition could be put to good use.

Tom Knopp of 703 Montauk Court came forward to say that the trailer really needs to go, but putting up a permanent structure when it is evident that their time is limited does not make sense. The service received in the area is very poor.

Jeff Moyer, 703 Hartford, came forward. He is opposed to this structure and to the service provided by Gatehouse. There is only about five years left on the contract once this building is completed. Residents would rather seek other service. They would like to get the trailer out and Gatehouse out of the area.

Vice Chairman Wright said the public hearing will remain open for 10 days for additional comments at which time it will come back before the Commission.

Commissioner Barnes, has some concern about the HOA's role in this building. He had assumed that they approved it, but feels that the citizens' comments prove differently.

Commissioner Bangert asked to see copies of the documents associated with the HOA agreement. At the time of signature it was a developer HOA and now has been turned over to the residents. She went on to ask if the conflict with Adelphia, Verizon and Gatehouse stands at this point. She would like to see the latest update on this, along with the original agreement with Gatehouse.

Mayor Umstadd asked if it was legal if the Planning Commission recommended approval of this Special Exception to require a bond or performance guarantee for removal of the structure and putting the site back to its original state if the contract is not renewed in five years. Brian Boucher said there is a paragraph in the Ordinance that does allow for this under certain conditions. He said that in this circumstance, that would be a reasonable request. The Mayor went on to ask if there were any other buildings scheduled to be put in the area? The answer was no. She went on to agree with Commissioner Bangert and said that council will want to review the original contract.

Commissioner Hoovler agreed with Commissioner Bangert and Mayor Umstadd and went on to ask what the official position of the HOA is on this. Jeff Moyer, President of the HOA, said that the HOA is opposed to this. He said there was no resolution or poll on this. Commissioner Hoovler suggested that they have a meeting and put their position in the minutes of the HOA as an official statement. He went on to ask if the cable commission had seen anything on this yet. Susan Swift said no, they hadn't. Basically only the original franchise went to the Commission. This was an unusual circumstance where the cable was put in prior to the town's knowledge. This was in the HOA's building when it was under the control of US Homes.

Commissioner Kalriess had a question on land use issues. He would like to get a response from Randy Greehan regarding land use contract and whether it should be relegated to town council. Secondly, regarding the bond and the building removal, is there another use that could come up by the HOA? How much space do they need for the equipment? Mr. Wallin stated that at most ten racks of receivers and modulators, some computers, boxes, switches, etc. will be stored in the building. The building can't be too

small because the equipment could overheat. Mr. Kalriess then asked what else could the building be used for? There was no direct response, just discussion. Were alternative sites discussed? Mr. Wallin responded no, there was no discussion, although they looked at three different sites and this is the only location that will allow the antenna farm, etc. since they need southern sky exposure. Mr. Kalriess encouraged the applicant to meet with the HOA to discuss this further. He also stated that he would like to see a performance bond in place for future demolition five years down the road. The HOA needs to state their position in writing regarding this application. Regarding the screening, fill in the uphill (south side) by putting in larger trees. Try to block the view from the houses.

Commissioner Jones asked for the slide that shows the open space in the area. He had some concerns about the wetlands in the area. Mr. Jones went on to ask if this was the only satellite franchise in town? Mr. Wallin explained that all television involves satellite use. When the agreement was made, they were the second supplier in town. Did the association grant an easement to Gatehouse? Mr. Murphy explained that when this was done, the HOA was under the control of the developer. He again asked if this was the only location acceptable for this use? Mr. Wallin responded that yes, this was the best site. Mr. Jones stated that he is sympathetic with the association, feels that this was originally done in good faith, but is troubled by the lack of an easement. This needs to be looked into. After some further discussion regarding the roof pitch and design of the building, Mr. Jones again reiterated that the vinyl fencing is misplaced, the landscaping needs to be readdressed and again, the HOA should control the agreement and the easement.

Vice Chairman Wright asked one more time how the agreement came about. Mr. Boucher explained that it was hard to tell just how this evolved since the county records indicate the developer as the HOA controller. There is a good possibility that the proper signatures have not been recorded in the tax records regarding this ownership. Commissioner Bangert stated that quite possibly the signatures may not be legal. Commissioner Wright said it would be important to obtain the date of transition from the developer to the citizens HOA.

Commissioner Barnes asked if there was a specific location that this agreement targeted at the outset for this type of facility. Mr. Wallin said no, there was no specific spot. Mr. Barnes asked who approved this particular site? Mr. Wallin said that six months ago the developer agreed this would be the best spot. However, Mr. Barnes asked the president of the HOA how long it has been since they have run the HOA. He responded 12 months or so. Mr. Barnes asked if the HOA signed the agreement to use this location. Mr. Moyer responded that no, they did not. Mr. Barnes pointed out that if the builder signed the agreement, then it was done in error.

Mr. Wright asked if the franchise agreement was specific to the area or the whole town? This is specific only to Edwards landing according to Mr. Wallin. Mr. Wright asked if an environmental impact statement had been done? Mr. Murphy responded that there is no impact, since all of this is outside of the floodplain area.

COUNCIL AND REPRESENTATIVE'S REPORT

Mayor Umstatt reported that she and Mr. Grow went to the Commonwealth Transportation Board last week to lobby for funds on Sycolin Road improvements and segments of Battlefield Parkway.

Commissioner Jones attended the Environmental Advisory Commission meeting last evening and presented the Commission with a draft Environmental Policy Statement.

STAFF AND COMMITTEE REPORTS

Susan Swift reported that Mr. Hower of the Tree Commission asked Chairman Vaughan to send at least one PC member to the Stake holders meeting on April 27th at 7:00pm. Commissioner Jones urged the entire commission to try and attend this meeting. Ms. Swift went on to announce the Crescent District Master Plan report by the consultants scheduled for May 12. They will present the preliminary findings at this meeting and again, as many Commission members as possible should attend this. Commissioner Jones said that since they are the "steering Committee" then the consultants should map out a specific role for the Commission so that they can get a better understanding of the scope of this and what is expected of them and what is supposed to happen. Ms. Swift said that the scope has been set out along with a meeting schedule. Mr. Jones said he wants to be a steering committee person, not a stakeholder. He feels that they are only getting reports and not involvement.

Commissioner Kalriess suggested that while they are gathering data, why don't they take that data and have interactive worksessions with the Planning Commission. Susan Swift said that they are past this point and ready to present a draft. Do we need to go back and look at the scope, stop so that this session can occur?

Commissioner Hoovler asked when they would be finished with their work? At the end of June and that is when the report will come out. Mr. Hoovler said that this would give them time to look at this report and contribute to the final report.

Commissioner Jones said he is not asking to change anything, however, at the May 12 meeting they should engage the Commission as a steering committee, not just a special interest group. Ms. Swift said that this is what their intent is.

Mayor Umstatt said that from the Council's point of view, it is very important that the Planning Commission should be in charge of making decisions on a major plan like this.

Commissioner Kalriess said as a consultant, he would not like to see something go all the way to the end and their input was not properly considered.

Susan Swift asked the Commission if they intended to take the second meeting in August off?

Commissioner Bangert moved to suspend the second meeting in August.

Motion: Bangert

Second: Hoovler

Carried: 6-0

Susan Swift had one other item regarding the ten day waiting period between the public hearing and the vote. She understands that they want to wait and will need to realign the schedule to reflect this. This puts the Council vote very close to the Meadowbrook deadline.

Vice chairman Wright felt that a representative should be at the next Council meeting Monday evening to be there regarding this.

Commissioner Bangert attended a community meeting regarding the gravel portion of Lawson Road. The road will be closed from the end of the school year until the beginning of the new school year. Signs will be posted and citizens were informed about the blasting that will occur.

OLD BUSINESS

Commissioner Kalriess asked if anyone had gone to the Evergreen Meadow meeting last night? Apparently no one went.

Commissioner Jones had a conversation with the developers of Leegate and Kincaid Forest. He felt that this was a positive step with neighborhoods and developers.

Commissioner Bangert said she also spoke with Mr. Looney and reiterated what Mr. Jones said that working with the neighbors was a positive direction to take.

At this point there was a break so that the meeting could move to the lower level.

COMPREHENSIVE PLANNING

Susan Swift said that the term “mixed use” needs to be redefined in the plan. A powerpoint was presented that discussed the alternatives. Features such as quality of life, work environments, diverse economic development, housing diversity, neighborhood identity and extending character of historic downtown were discussed. Examples of areas around the country that have developed “mixed use” centers successfully were shown.

Following the presentation discussion centered around alternative land use categories. The exercise this evening will map hi density residential, break land use into criteria such as intent, uses, size, site design and building design. Defining the bookstore, pharmacy, etc. intended for neighborhood centers will be categorized into neighborhood, community

or regional retail. Relating to the FAR (floor area ratio) and considering building design. Virginia law regulates what the town can ask when considering design.

Mayor Umstadd asked whether we were moving toward a 2-story retail or away from it. Will the draft town plan treat the “mixed use centers” the same as the 1997 town plan? There was some discussion on the FARs and whether they were mandatory and should remain in the plan. Finally, is there really room left in Leesburg for these type of uses. Will these type of uses mesh with the character of the town?

Commissioner Jones was reluctant to broadcast ratios. He would like to encourage the applicant to propose an idea. If the mix works within the parcel, then go with that. If we are not careful, ratios can create “boxy” sites. Each parcel varies and the approach should be to design the site in relationship to what surrounds it, not necessarily a percentage of mix.

Commissioner Bangert said there need to be guidelines. Mixed use centers can have different goals. Commissioner Hoover asked if there should be sector by sector guidelines. Commissioner Kalriess added there should be a wide range of uses available. If the guidelines are too narrow, they will encourage too much of the same use.

Discussion centered around mapping out certain areas in and around town. Where should there be medium to high density that includes neighborhood retail? Commissioner Kalriess asked if they would be encouraging applicants to seek a town plan amendment everytime they wanted to change use.

Commissioner Jones suggested that they construct a methodology. When an applicant comes in, let him design the site, even though it may not fit what the plan says. This could encourage better design and provide flexibility.

Commissioner Kalriess had concerns with percentages and definition of mixed use. He is not convinced that retail in neighborhoods doesn't create more traffic. Consideration must be taken for what lies beyond the boundaries of a parcel.

Commissioner Bangert expressed concern about mixed use. She would like to see specificity with percentages, mainly housing density. An area could get too much residential if driven by market force rather than a long range plan.

Commissioner Barnes agreed and said that if something is not economically feasible, then they won't build it. He feels business should be kept close to the Bypass and needs to have easy ingress and egress from the site to draw customers.

Mayor Umstadd also favored keeping the percentages in place. She feels that citizens don't necessarily want neighborhood retail. She also agreed that mixed use needs a good definition and wants to keep percentages in place. If we don't hold land now for future office use, we will never get it.

Commissioner Hoovler said this is a plan and the Commission is looking at it and trying to make it work. What are the concerns? Keep in mind that there can be plan amendments. Retail should be included, as well as specificity. Keeping a broader range can benefit all sides.

Commissioner Wright cautioned that we must be careful not to create separate town centers. He agrees that each parcel should be customized to the surrounding area.

Commissioner Bangert commented on the Oaklawn approval. It is mapped on the land use map as Commercial/Light Industrial. Should it be approved plan specific or not? A portion of it was changed because of the residences planned near the airport.

Randy Greehan addressed plan amendments. Decide what the predominant use should be (put in how you want it and be specific) with appropriate consolidation to provide flexibility.

Commissioner Kalriess agreed saying that all parcels should be able to transition from one use to the next.

Commissioner Jones feels that the market opportunity hasn't come to Leesburg yet for office. This should be a priority, percentages are OK if they assist marketability. Allow the applicant the flexibility to mix in uses and products.

There was consensus that the amount of residential near the airport has to be monitored closely.

David Fuller again addressed the fact that traffic in neighborhood retail areas are reduced because of proximity to residences. Density, design and diversity are critical to designing the site. The type of use will also dictate the type and amount of traffic. Neighborhood retail is less likely to draw people from outside the community than regional retail.

Discussion on land use in the JLMA/UGA came next. It was mentioned that the airport wants 7500 feet of buffer zone around the airport. This area is already infiltrated with housing, however and effort can be made to minimize additional residential development.

It was decided that the area currently designated light industrial that lies between Tuscarora Creek and Route 7 to Cardinal Park Drive should be changed to Regional Office. This would allow that land to encourage facilities such as higher education, hotel, office, emerging technology and should include no residential.

The Water Treatment Plant should stay in the industrial designation.

Commissioner Kalriess moved to change this parcel of land from light industrial to regional office.

Motion: Kalriess

Second: Jones

Carried: 6-0

The area below Cochran Mill road and bordered by Crosstrails Boulevard should Community Office/Light Industrial. The existing substations in that area should remain light industrial.

Loudoun Commons should be Regional Office and the southwest area could include residential.

Commissioner Bangert asked if it would be possible to add a designation for government use on the land use map. David Fuller responded that this would be nearly impossible since there are many small parcels all over the place that are government owned. Ms. Bangert asked if at least the large parcels, including school sites could be designated somehow.

The motion was made to adjourn at 11:40pm

Presented by:

Approved by:

Linda DeFranco, Commission Clerk

Kevin Wright, Vice Chairman